

REMARKS/ARGUMENTS

In response to the Non-Compliant Amendment dated January 6, 2005, claims 1-93 have been added with the status identifier as being “cancelled”. For the sake of completeness, the Remarks from Amendment “A” are being restated below.

Claims 94, 96-108, 110-111, 113-114, and 116 remain in the application for further prosecution. Claims 95, 109, 112, and 115 have been cancelled. Claims 94, 96, 106, and 113 have been amended.

§ 102 and § 103 Rejections

Claims 94, 97-98, 100, 101, 104-108, 110, 112-114, were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,254,483 (Acres).

Claims 95, 96, 111, and 116 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,254,483 (Acres) in view of WO 99/649997 (Timperley).

Claims 99, 102, 103, 109, and 115 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,254,483 (Acres).

Independent Claim 94

Independent claim 94 has been amended to include the limitations of dependent claim 95. However, the Applicants believe that the rejection of former claim 95, now amended claim 94, is unwarranted.

First, the Examiner alleges that “Acres teaches the alteration of audio output with/around holidays (Figure. 5).” Office Action, page 4. The Applicants believe that this is neither a fair, nor accurate, reading of Acres. The only teaching in Acres regarding a holiday is that the pay table should be changed in accordance with the demand on the casino floor, which is known to

change during certain holidays. Column 7, line 56 to Column 8, line 64. Simply mentioning that a payback percentage can change on certain holidays is not a teaching that the audio output should change on a holiday. Again, Acres' principal focus is increasing profits through changes in the payback percentage. See Column 2, line 35 to Column 3, line 9. In fact, the brief description of Acres' Figures 4 and 5 indicates that each of these figures "shows changes in the player cost per unit time in response to the day of the year" or "to the time of day." Column 3, lines 49-54. Furthermore, the Applicants note that the only teaching in Acres regarding the alteration of the sound is the simple, generic statement at Column 3, line 18, which was referenced by the Examiner. However, this simple statement cannot teach the specific limitations set forth in amended claim 94. Accordingly, the Applicants respectfully request that the Examiner reconsider the position that Acres teaches the alteration of audio output with/around the holidays.

Second, the Applicants agree with the Examiner that Acres does not teach "the newly selected audio output has a theme indicative of that holiday." Office Action. p. 4. Other than changing the payback percentage to make the game more profitable for the casino, Acres teaches nothing with regard to changes occurring relative to a holiday. To overcome this deficiency, the Examiner cites to Timperley for the specific claim element regarding a theme that is indicative of a societal event. Yet, claim 94 calls for "broadcasting a modified audio output from said gaming terminal in response to said real time being a predetermined time associated with a commonly known societal event, said modified audio output having a theme that is indicative of said commonly known societal event." Timperley fails to disclose modified gaming symbols, much less the claimed modified audio output. Rather, Timperley simply discloses that the animated

line (which is Timperley's invention) can take various forms depending on the theme of the game being played at the gaming machine. Timperley does not teach that a single gaming machine can have multiple themes and that the animated line is altered depending on the theme that is selected for that single gaming machine.

Accordingly, the Applicants respectfully request the Examiner to reconsider the rejection based on the combination of Acres and Timperley. Amended claim 94 and its depending claims are believed to be allowable over this combination of references.

Independent Claims 106 and 113

Independent claims 106 and 113 have been amended to include the limitations that the gaming terminal includes a memory device that stores the audio data sets that produce different audio output. The audio output associated with the audio data sets is broadcast from speakers at the gaming terminal. The Applicants respectfully suggest that the prior art fails to disclose the inventions set forth in claims 106 and 113.

The Applicants agree with the Examiner that Acres teaches that a gaming terminal can include a RAM and ROM. Office Action, p. 4. The Applicants strongly disagree, however, that Acres teaches "the transfer of the audio information (Col. 3: 15-20) from a central storage point to the gaming terminal." *Id.* The quoted section in Column 3 of Acres discloses nothing about the transfer of audio information, nor a central storage point for the audio information.

With regard to sound, the only thing that Acres teaches is that the banks 16, 18, 20 of gaming machines can have a bank controller 24 that can be used for broadcasting sound from the speakers 26 associated with the bank 16, 18, 20. Column 4, lines 2-13. The speakers 26 and the bank controller 24 are not located within a gaming machine. Rather, the speakers 26 and the

bank controllers 24 are external to, and associated with, several gaming machines that comprise the banks 16, 18, 20. Further, the simple, generic statement in Column 3 of Acres regarding the changing of sound effects cannot anticipate the specific limitations set forth in amended claims 106 and 113. Any suggestion that the skilled artisan would modify Acres to arrive at the invention of amended claims 106 and 113 is based on a hindsight reconstruction of the Applicants' invention.

Because all the elements of amended claims 106 and 113 are not present in the cited prior art, a *prima facie* case of obviousness cannot be established with respect to these claims. Applicants believe that claims 106 and 113 and their dependent claims are allowable over the cited prior art.

Conclusion

It is the Applicants' belief that all of the claims are now in condition for allowance and action towards that effect is respectfully requested.

If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at the number indicated.

Respectfully submitted,



Daniel J. Burnham

Reg. No. 39,618

Jenkens & Gilchrist

225 West Washington Street, Suite 2600

Chicago, IL 60606-3418

(312) 425-3900

Attorney for Applicant

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